

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ,
MARCUS MARTIN, NATALIE ROMERO,
CHELSEA ALVARADO, JOHN DOE, and
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
“AZZMADOR” RAY, NATHAN DAMIGO,
ELLIOT KLINE a/k/a/ ELI MOSLEY,
IDENTITY EVROPA, MATTHEW
HEIMBACH, MATTHEW PARROTT a/k/a
DAVID MATTHEW PARROTT,
TRADITIONALIST WORKER PARTY,
MICHAEL HILL, MICHAEL TUBBS,
LEAGUE OF THE SOUTH, JEFF SCHOEP,
NATIONAL SOCIALIST MOVEMENT,
NATIONALIST FRONT, AUGUSTUS SOL
INVICTUS, FRATERNAL ORDER OF THE
ALT-KNIGHTS, MICHAEL “ENOCHE”
PEINOVICH, LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN, and EAST COAST
KNIGHTS OF THE KU KLUX KLAN a/k/a
EAST COAST KNIGHTS OF THE TRUE
INVISIBLE EMPIRE,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**PLAINTIFFS’ RESPONSE TO MOTION TO WITHDRAW AS ATTORNEY FOR
DEFENDANT RICHARD B. SPENCER**

We are writing the Court to supplement the factual record with information we recently learned regarding the pending motion to withdraw filed by Defendant Richard Spencer's attorney, John DiNucci ("the Motion"). More specifically, as described further below, on May 19, 2020, several weeks before the June 11 hearing concerning the Motion in this case, a court in Montana held Mr. Spencer in contempt for his persistent refusal to pay tens of thousands of dollars of court-ordered fees he owes to the Guardian ad Litem (the "GAL") who represented his children in his recent divorce proceeding. Indeed, while Mr. Spencer expressed optimism to Your Honor on June 11 regarding his ability to satisfy his financial obligations to Mr. DiNucci by raising money, Mr. Spencer took a decidedly different tack during the May contempt hearing in Montana: "Well, indigent is indigent[.]" he told the Montana court. "I can't invent money of out thin air[.]" Ex. A., Partial Transcript of May 19, 2020 Hearing, DR-18-474C, Montana Eleventh Judicial District Court, Flathead County at 11-13, 8. Mr. Spencer's legal and financial situation stemming from the proceedings in Montana, as well as the inconsistent representations he made to that court, bear directly on the issues before the Court in connection with the Motion.

* * *

As Your Honor is aware, Mr. DiNucci moved to withdraw from representing Mr. Spencer on May 15, 2020. (Doc. No. 727.) A hearing was held on the Motion on June 11, which centered largely on Mr. Spencer's ability to satisfy his legal obligations to Mr. DiNucci. At the hearing, Mr. DiNucci explained that Mr. Spencer owes him a "substantial sum of money." (Doc. No. 767 at 12-15, 5.) Mr. DiNucci stated that he told Mr. Spencer as early as January of this year that if Mr. Spencer was unable to fulfill his financial obligations, Mr. DiNucci would move to withdraw. (*Id.* at 9-12, 5.) Mr. Spencer told the Court that he understood the costs Mr. DiNucci would incur in preparing for and defending him at trial, and that he expected he would have a way to pay Mr. DiNucci soon. (*Id.* at 6-18, 10.) When the Court pressed Mr. Spencer about

whether he “actually ha[s] a viable plan to be able to pay Mr. DiNucci for the work he’s already performed,” Mr. Spencer said that he did. (*Id.* at 11-14, 15.) He said, “in terms of my ability to raise money, I don’t think that can be put into question.” (*Id.* at 16.) The Court agreed to take the Motion under advisement and asked Mr. DiNucci to advise the Court in one week whether he wants to withdraw the Motion. (*Id.* at 12-17, 18.)¹

Subsequent to the June 11 hearing, Plaintiffs recently learned that Mr. DiNucci is not the only attorney owed substantial sums by Mr. Spencer. Mr. Spencer was recently held in contempt in Montana for his failure to pay court-ordered fees to the GAL who represented his children in his recent divorce proceeding. Mr. Spencer owes the GAL, Joyce Funda, more than \$60,000 for work that she finished in December 2019. Ex. B, Order to Show Cause, January 8, 2020, DR-18-474C at 9. After giving Mr. Spencer more than a year to pay his outstanding debt, Ms. Funda filed an Order to Show Cause why Mr. Spencer should not be held in contempt for his failure to pay her court-ordered fees (the “OSC”). In the OSC, Ms. Funda noted that the court that appointed Ms. Funda as GAL ordered Mr. Spencer to pay her fees. Ex. B at 8. In an affidavit in support of the OSC, Ms. Funda noted that she asked Mr. Spencer to pay her multiple times before filing the OSC, but that Mr. Spencer refused to pay his outstanding fees. Ex. B at 8-9. Ms. Funda noted that when she last discussed Mr. Spencer’s debt with him on the telephone, he told her that he would “never, ever” pay her. *Id.* at 10.

On May 19, 2020, the Montana court deciding Ms. Funda’s OSC (the “Montana Court”) held a hearing where Ms. Funda and Mr. Spencer appeared. Ex. A. During the hearing, Mr.

¹ Mr. DiNucci has advised the Court today that he does not wish to withdraw the Motion.

Spencer repeatedly represented, in no uncertain terms, that he has no ability to pay Ms. Funda. *See e.g.*, Ex. A at 11-13, 8 (“Well, indigent is indigent. I can’t invent money of out thin air”); Ex. A at 13-16, 9 (“Well, then what’s the point of filing a motion? I mean, I just – like if there’s no money to pay [Ms. Funda] So this is all rather academic”); Ex. A at 7-10, 6 (“I cannot afford a lawyer”). The Montana Court gave Mr. Spencer one month to purge the contempt by paying or developing a payment plan to pay his outstanding fees to Ms. Funda. Ex. A at 1-8, 4. The Montana Court further ordered that Mr. Spencer serve a 14-day jail sentence and pay a \$500 fine should he fail to purge himself of the contempt. *Id.* Mr. Spencer indicated that he would file a motion within fourteen days asserting that he is indigent. Ex. A at 22-25, 6; 1-10, 7; 23-25, 8; 1-3, 9. As far as Plaintiffs are aware, Mr. Spencer also has neither filed a motion in response to the OSC in the Montana Court nor purged himself of the contempt.

Plaintiffs believe Mr. Spencer’s significant outstanding debt to Ms. Funda, his repeated representations of indigency to the Montana Court, as well as the potential impending jail sentence are relevant to the issues before the Court on the Motion.

Date: June 18, 2020

Respectfully submitted,

/s/
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CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2020, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on June 18, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

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